

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

SPARTAN PLUMBING and BOB DAVIS
Respondents

Case No.: I-00-10730

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801.01 *et seq.*) and Title 21 Chapter 5 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. 00-10730) served January 25, 2002, the Government charged Respondents Spartan Plumbing and Bob Davis with a violation of 21 DCMR 502.1 (failing to obtain a building permit before engaging in land disturbing activity)¹ and 21 DCMR 539.4 (failing to place adequate erosion control measures before and during exposure).² The Notice of Infraction charged that the alleged violations occurred on January 17, 2002 in the 7400 block of

¹ 21 DCMR 502.1 provides: “No person may engage in any land disturbing activity on any property within the District until that person has secured a building permit from the District. Approval of a building permit shall be conditioned upon submission by the permit applicant of an erosion and sedimentation plan which has been reviewed and approved by the Department.”

² 21 DCMR 539.4 provides: “Adequate erosion control measures shall be in place prior to and during the time of exposure.”

Blair Road, N.W., and sought a fine of \$500 for the alleged violation of 21 DCMR 502.1 and \$100 for the alleged violation of 21 DCMR 539.4.

On February 8, 2002, Respondents filed a plea of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02(2) to the charged violations, along with a request for a reduction or suspension of the authorized fines. Respondents explained that that they were unaware of the specific requirements of 21 DCMR §§ 502.1 and 539.4, and that “the fees were paid to the Watershed Protection Division when we were made aware of the requirements, and the site was altered as outlined on their permit.”

By order dated February 22, 2002, I permitted the Government to respond to Respondents’ plea and request. In light of Respondents’ status as first-time offenders and their prompt correction of the cited violations, the Government responded on March 6, 2002 with a recommendation that the total fine sought be reduced from \$600 to \$500. On March 19, 2002, Respondents submitted a check (No. 3293) in the amount of \$500, apparently based on the Government’s March 6th recommendation.

II. Findings of Fact

1. By their plea of Admit with Explanation, Respondents have admitted violating 21 DCMR 502.1 on January 17, 2002 in the 7400 block of Blair Road, N.W.

2. On January 17, 2002, Respondents failed to obtain a building permit before engaging in land disturbing activity that required an approved erosion and sedimentation control plan at the work site in the 7400 block of Blair Road, N.W.
3. By their plea of Admit with Explanation, Respondents have admitted violating 21 DCMR 539.4 on January 17, 2002 in the 7400 block of Blair Road, N.W.
4. On January 17, 2002, Respondents failed to place adequate erosion control measures before and during exposure at the work site in the 7400 block of Blair Road, N.W.
5. There is no evidence in the record of a history of non-compliance on the part of Respondents.
6. Respondents acted promptly to correct the charged violations.
7. In light of Respondents' status as first-time offenders and the timeliness of their compliance, the Government recommended on March 6, 2002 a \$100 reduction in the \$600 total fine originally sought.
8. On March 19, 2002, Respondents submitted a check (No. 3293) in the amount of \$500 apparently based on the Government's March 6, 2002 recommendation.

III. Conclusions of Law

1. Respondents violated 21 DCMR 502.1 on January 17, 2002. A fine of \$500 is authorized for a first offense of this violation. *See* 16 DCMR §§ 3201.1(b)(1) and 3234.1(a). In light of the Government's recommendation and the facts supporting that recommendation, the fine will be reduced from \$500 to \$425. *See*

D.C. Official Code §§ 2-1802.02(a)(2), 2-1801.03(a)(6). Respondents have paid this fine in full.

2. Respondents violated 21 DCMR 539.4 on January 17, 2002. A fine of \$100 is authorized for a first offense of this violation. *See* 16 DCMR §§ 3201.1(c)(1) and 3234.2(y). In light of the Government's recommendation and the facts supporting that recommendation, the fine will be reduced from \$100 to \$75. *See* D.C. Official Code §§ 2-1802.02(a)(2), 2-1801.03(a)(6). Respondents have paid this fine in full.

IV. Order

Based upon the foregoing findings of fact and conclusions of law, and the entire record of this case, it is, hereby, this ____ day of _____, 2002:

ORDERED, that Respondents, who are jointly and severally liable, shall pay a fine in the total amount of **FIVE HUNDRED DOLLARS (\$500)**, which Respondents have paid in full; and it is further

ORDERED, that the Clerk of Court shall mark this matter as **CLOSED**.

/s/ **03/29/02**

Mark D. Poindexter
Administrative Judge